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DATE: August 10, 2005

PTO IDENTIFIER: Application Number 10/825,456-Conf. #8332
Patent Number

Inventor: Michael P. Cunningham et al.

MESSAGE TO: US Patent and Trademark Office

FAX NUMBER: (571) 273-8300

FROM: RADER, FISHMAN & GRAUER PLLC

Michael B. Stewart

PHONE: (248) 594-0633

Attorney Dkt. #: 65042-0443

PAGES (Including Cover Sheet): 5

CONTENTS: Response to Restriction Requirement (with Traverse) (3 pages)
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RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue, Suite 140, Bloomfield Hills, Michigan 48304
Telephone: (248) 594-0600 Facsimile: (248) 594-0610

PTO/SB/97 (09-04)

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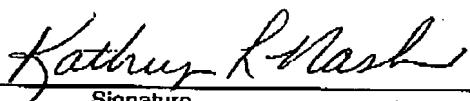
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Application No. (if known): 10/825,456

Attorney Docket No.: 65042-0443

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Response to Restriction Requirement (with Traverse) (3 pages)

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(Kathryn L. Nash)

Docket No.: 65042-0443
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Cunningham et al.

Application No.: 10/825,456

Confirmation No.: 8332

Filed: April 15, 2004

Art Unit: 3612

For: SECUREMENT MECHANISM INCLUDING
TOP LOADING TIE DOWN CLEAT
ASSEMBLY AND LOCKING MEMBER

Examiner: Hillary Gutman

RESPONSE TO RESTRICTION REQUIREMENT

MS Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed July 28, 2005, applicants hereby provisionally elect Species B for continued examination, with traverse.

The Examiner has required restriction between:

Species A. Figures 1 – 7 and claim 15

Species B. Figures 8 – 15 and claims 13, 17, and 19

The Commissioner may require restriction if two or more independent and distinct inventions are claimed in a single application (37 CFR 1.142(a)). In the present case, although the Examiner asserts that the claimed subject matter is classified a patentable distinct Species.

Application No.: 10/825,456

Docket No.: 65042-0443

Applicants respectfully submit that even if distinct, the subject matter of the Species is sufficiently related that a thorough search for the subject matter of Species A would encompass a search for the subject matter of Species B. See MPEP § 803, which states that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions."

In view of the significant overlap between the claims of Species A and B, and the presence of generic claims, namely claims 1 – 12, 14, 16, 18, and 20 – 22, it is respectfully submitted that the Examiner will be required to search art not only related to Species B, but also related to Species A as part of the analysis of the generic claims. Indeed, claims 13, 17, and 19 read on Species B. However, only claim 15 specifically reads on Species A and therefore the search and examination of the entire application can be made without serious burden. Therefore, this policy should apply in the present application to avoid unnecessary delay and expense to the Applicants and duplicative examination by the Patent Office.

Upon the allowance of a generic claim, Applicants will be entitled to consideration of claims to other species in addition to the elected specie, provided that all claims to each additional species are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141.

If the Examiner has any questions with respect to this communication, he is kindly urged to call the undersigned.

Application No.: 10/825,456

Docket No.: 65042-0443

Applicants believe no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. 65042-0443 from which the undersigned is authorized to draw.

Dated: 08/10/05

Respectfully submitted,

By Michael B. Stewart

Michael B. Stewart

Registration No.: 36,018
RADER, FISHMAN & GRAUER PLLC
39533 Woodward Avenue
Suite 140
Bloomfield Hills, Michigan 48304
(248) 594-0647
Attorney for Applicants

R0306714